

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

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<b>ROBERT HOLMAN,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. 1:21-cv-01085-STA-jay</b>
	)	
<b>THOMAS J. VILSACK, in his official</b>	)	
<b>capacity as Secretary of Agriculture;</b>	)	
<b>and ZACH DUCHENEAUX, in his official</b>	)	
<b>capacity as Administrator of the Farm</b>	)	
<b>Service Agency,</b>	)	
	)	
<b>Defendants.</b>	)	

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**DEFENDANTS’ UNOPPOSED MOTION FOR LEAVE TO FILE EXCESS PAGES**

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Defendants Tom Vilsack, in his official capacity as Secretary of Agriculture, and Zach Ducheneaux, in his official capacity as Administrator of the Farm Service Agency (collectively, “Defendants,” or “USDA”), hereby seek leave to file a Response in Opposition to Plaintiffs’ Motion for a Preliminary Injunction in excess of the Local Rules’ 20-page limit. *See* Local Rule 12.1(a). Plaintiff does not oppose this motion.

Plaintiff’s Complaint and Motion for Preliminary Injunction challenge a USDA program designed to provide debt relief for socially disadvantaged farmers and ranchers, as authorized by the American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 4 (ARPA), on grounds that the program violates equal protection principles. This recently authorized program, which is of significant interest to the Government, has received media attention and is the subject of several other lawsuits in courts around the country. *Miller v. Vilsack*, 4:21-cv-595 (N.D. Tex.); *Faust v.*

*Vilsack*, 1:21-cv-548 (E.D. Wis.); *Wynn v. Vilsack*, 3:21-cv-514 (M.D. Fla.); *Carpenter v. Vilsack*, 21-cv-103 (D. Wyo.); *Kent v. Vilsack*, 21-cv-540 (S.D. Ill.); *McKinney v. Vilsack*, 21-cv-212 (E.D. Tex.); *Joyner v. Vilsack*, 21-cv-1089 (W.D. Tenn.). On June 7, Plaintiff moved for a preliminary injunction, seeking to “halt” Section 1005’s implementation. ECF No. 7.

As Defendants’ attached Response brief shows, the additional pages over the limit are necessary to address the merits of all claims raised in Plaintiff’s Complaint and relied on in support of their Motion for a Preliminary Injunction, and to address all other preliminary injunction factors. In particular, Defendants’ arguments on the merits of Plaintiff’s equal protection claim challenging Section 1005’s implementation require the Government to show that it had a strong basis in evidence to conclude that the effects of discrimination against minority farmers in USDA programs persist, such that the remedy in Section 1005 was necessary and narrowly tailored. That showing will involve an explication of the numerous investigations, reports, articles, and congressional testimony over decades that have documented the discrimination against minority farmers in USDA programs and thus demonstrate that the Government had a strong basis in evidence to conclude that the debt relief to socially disadvantaged farmers and ranchers under Section 1005 was necessary to serve its compelling interests. Defendants will also address the merits of Plaintiff’s two other claims concerning provisions related to “debt forgiveness” as defined by statute. And in addition to the merits of Plaintiff’s claims, Defendants will address the other preliminary injunction factors to show that Plaintiff is not entitled to such relief.

To enable Defendants to adequately address all issues raised in Plaintiff’s preliminary injunction motion and thereby better assist the Court in resolving that motion, Defendants respectfully request leave to file a response brief of 40 pages. The importance of the issues

involved in the case and the significance of a preliminary injunction against Section 1005's implementation warrant additional pages for Defendants' response.

Finally, counsel for Defendants have conferred with counsel for Plaintiff, and Plaintiff does not oppose this request to file a brief of 40 pages. Accordingly, the Court should grant this Motion and allow Defendants to file their Response in Opposition on the docket as a separate docket entry.

DATE: June 24, 2021

Respectfully submitted,

JOSEPH C. MURPHY, JR.  
Acting United States Attorney

*s/ Audrey M. Calkins*  
Audrey M. Calkins (TN BPR # 030093)  
[Audrey.calkins@usdoj.gov](mailto:Audrey.calkins@usdoj.gov)  
167 N. Main Street, Suite 800  
Memphis, TN 38103  
901-544-4231  
Fax: 901-544-4230

BRIAN M. BOYNTON  
Acting Assistant Attorney General

LESLEY FARBY  
Assistant Branch Director  
Civil Division, Federal Programs Branch

*/s/ Kyla M. Snow*  
EMILY SUE NEWTON (VA Bar No. 80745)  
Senior Trial Counsel  
KYLA M. SNOW (Ohio Bar No. 96662)  
Trial Attorney  
United States Department of Justice  
Civil Division, Federal Programs Branch  
1100 L Street, NW  
Washington, D.C. 20005  
Tel: (202) 514-3259 / Fax: (202) 616-8460  
[Kyla.snow@usdoj.gov](mailto:Kyla.snow@usdoj.gov)

*Counsel for Defendants*

**CERTIFICATE OF CONSULTATION**

I certify that counsel for Defendants conferred with counsel for Plaintiff regarding this Motion, and he indicated that Plaintiff does not oppose this Motion.

*s/ Kyla M. Snow*